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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,213	09/26/2001	Wen-Hsiao Peng	042390.P11905	2889

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EXAMINER

PHILIPPE, GIMS S

ART UNIT PAPER NUMBER

2613

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/965,213	Applicant(s) PENG ET AL.	
	Examiner Gims S. Philippe	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-11, 17-22, 28-33 and 39-44 is/are allowed.
- 6) ☒ Claim(s) 1-5, 12-16, 23-27, 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. Applicant's request for reconsideration received on December 28, 2005 has been fully considered and entered, but the arguments with respect to claims 1-5, 12-16, 23-27 and 34-38 are not deemed to be persuasive.

Note: while the examiner maintains the rejections for the above noted claims, a different approach was taken in light of the arguments when reconsidering the rejections of claims 6-11, 17-22, 28-33, and 39-44.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 12-16, 23-27 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Schaar et al. (US Patent no. 6788740) in view of Wu et al. (US Patent no. 6700933) for the same reasons as previously set forth in the last office action mailed on October 17, 2005 (See previously mailed rejection regarding the above claims).

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Regarding the above claims, the applicant argues that Wu qualifies as prior art under 35 U.S.C. 102(e) because it was issued after the Applicant's effective filing date. And that applicant does not admit that Wu is prior art and reserves the right to challenge the reference at a later date.

In response to the preceding argument, the applicant reminds the applicant that:

- a) the effective filing date of Wu is Feb. 15, 2000 while the applicant's effective filing date is September 26, 2001.
- b) Wu's inventive entity and assignee are different than the applicant's own inventive entity. The assignee in the present application is Intel Corporation while the prior art is Microsoft Corporation.
- c) The applicant has not shown any convincing facts that would disqualify Wu as prior art.

The applicant further argues that Van der Schaar encoder 256 does not create an enhancement layer from the DCT coefficient used to create the base layer. The examiner respectfully disagrees while independent claim 1 does not reflect the applicant's argument, Van der Schaar produces an enhancement layer at the output of encoder 256. In addition, quantizer 216 provides inputs for the base layer and the enhancement layer encoding unit as noted in col. 7, lines 43-45. It should be noted that the output of quantizer 216 also inputs to the encoder 218 which outputs a base layer bitstream.

The applicant further argues that there is no disclosure in Van der Schaar that teaches or even suggests that it is mathematically possible for the encoder 256 to generate a value equal to the fractional value of the quantized DCT coefficient. In response to the preceding argument, the examiner points to fig. 2, items 252 and 256 disclosing the means to provide the argued fractional value. The residual calculator receives coefficients from transform unit 214.

The applicant further argues that Van der Schaar does not make a difference between the residual value and a fractional value since the same value to create the base layer and enhancement layer is not used. In the claims, the language calls for fractional values not a specific (i.e., the *same*) fractional value as the applicant is referring to.

4. Claims 6-11, 17-22, 28-33, 39-44 are allowed.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

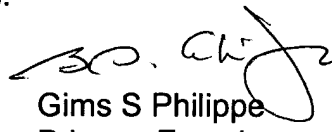
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dastouri S. Mehrdad can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gims S Philippe
Primary Examiner
Art Unit 2613

GSP

March 2, 2006